

OGC 76-3934
16 July 1976

MEMORANDUM FOR: Director of Security

ATTENTION : Chief, Policy and Plans Group

FROM : Richard H. Lansdale
Associate General Counsel

SUBJECT : Proposed DCID 1/19

1. Confirming our conversation of yesterday, we have no legal objection to the points raised on your routing sheet of 6 July nor to those in SECOM-D-164, 30 June 1976.

2. Several additional points:

a. Paragraph 1 of the proposed DCID 1/19 is unobjectionable, but also it is unneeded. The Executive Order issued in February imposes precisely the same requirements as does paragraph 1. The departments therefore are under Presidential instruction to take the necessary action. It is not necessary for the DCI to re-require such action, nor are departments justified in delaying implementation of the Order. Portions of paragraph 3 similarly are unnecessary.

b. The citation in footnote 1 to the statutory definition of Restricted Data is incorrect. The language should read "as defined in section 11 of Public Law 83-703, the Atomic Energy Act of 1954."

c. I think the DIA suggestion at footnote 2 of the proposed directive is not in compliance with the Executive Order. Further, it would reduce the secrecy protection contemplated by the Order to a nullity. The Order requires that executive branch employees sign an agreement that they will not disclose "information containing sources or methods of intelligence." It does not limit this to "classified" information. If the protection to be afforded by section 7(a) of the

Executive Order is to be limited to "classified" sources and methods information, it would provide no protection additional to that already provided by Executive Order 11652 and the secrecy agreements utilized in connection with that Order. Further it would continue the need to prove, in litigation, that the information at issue is classified. One of the purposes in establishing protection for sources and methods information, as distinguished from and in addition to classified information, was to avoid having to prove the national security aspects of information.



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Attached is my memorandum of 16 July 1976 to Bob Gambino concerning DCID 1/19, which as we discussed is relevant to the DoD position concerning the protection of "classified" intelligence sources and methods information as distinguished from information of that nature which is not classified.			
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